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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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03/06/95 SANSONETTI

P 2356.0042-02 VB

H322/1215

RECEIVED MINDSTACH PARABOW  
GARRETT & DUNNER  
1001 1001ST NW  
WASHINGTON DC 20005-0315

EXAMINER

NOVARRO, A

ART UNIT	PAPER NUMBER
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1-45

43

DATE MAILED:

12/15/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/466,698

Applicant(s)

Sansonetti et al

Examiner

Mark Navarro

Group Art Unit

1645



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 24-46 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 24-46 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1645

Applicant's amendment filed October 2, 2000 has been received and entered. Claims 1-8, 10, and 13-23 have been canceled, and new claims 24-46 have been inserted. The following new restriction is based upon Applicant's newly submitted claims:

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 24-37, and 39-46 drawn to methods of modifying the icsA gene of Shigella and Shigella strains comprising an inactivated icsA gene, classified in class 435, subclass 172.1.
  - II. Claims 38-45, drawn to a Shigella strain comprising an inactivated Shiga-toxin gene, classified in class 435, subclass 325.

2. The inventions are distinct, each from the other because of the following reasons:

Invention I, drawn to modifying the icsA gene, is distinct from Invention II, drawn to strains comprising a modified shiga-toxin gene, since they are distinct polynucleotide sequences encoding distinct proteins with separate biological activity and function.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their separate classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Art Unit: 1645

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (703) 306-3225.



Mark Navarro

Primary Examiner

December 14, 2000